

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

|                                      |   |                               |
|--------------------------------------|---|-------------------------------|
| <b>FRANK JAMES CAPOZZI, SR.,</b>     | : | <b>Civil No. 3:17-cv-2413</b> |
|                                      | : |                               |
| <b>Plaintiff,</b>                    | : |                               |
|                                      | : |                               |
| <b>v.</b>                            | : |                               |
|                                      | : |                               |
| <b>CATERING BY MARLINS, INC., et</b> | : |                               |
| <b>al.,</b>                          | : |                               |
|                                      | : |                               |
| <b>Defendant.</b>                    | : | <b>Judge Sylvia H. Rambo</b>  |

**ORDER**

AND NOW, this 23<sup>rd</sup> day of November, 2021, upon consideration of Chief Magistrate Judge Mehalchick's Report and Recommendation (Doc. 56), wherein she recommends that the court dismiss the captioned action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41, and further upon noting that no objections to the Report and Recommendation have been filed, and the court having satisfied itself that there is no clear error on the face of the record, *see* FED. R. CIV. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (citation omitted), it is **HEREBY ORDERED** as follows:

- 1) The Report and Recommendation (Doc. 56) is **ADOPTED**;
- 2) This action is **DISMISSED WITH PREJUDICE**;
- 3) The Clerk of Court is directed to **CLOSE** this case; and
- 4) Any appeal taken from this order is deemed frivolous and not in good faith.

s/Sylvia H. Rambo  
Sylvia H. Rambo  
United States District Judge